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January 17, 2011

**ELECTRONICALLY FILED
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The Honorable Robert B. Kugler
United States District Court for the District of New Jersey
Mitchell H. Cohen Building and U.S. Courthouse
4th & Cooper Streets Room 1050
Camden, New Jersey 08101

Re: Sciele Pharma, Inc., et al. v. Lupin Ltd., et al., Civil No. 09-037-RBK-JS

Dear Judge Kugler:

On behalf of all of the attorneys in this case representing the Lupin defendants, I write to respond to the Court's comments in footnote 3 of its Opinion of January 12, 2012 (D.I. 304) denying Lupin's motion for stay or modification of the preliminary injunction.

In their Reply Brief in Support of Motion to Stay or Modify Enforcement of the Court's Preliminary Injunction Order (D.I. 297), the Lupin defendants stated, "the record before the Court here was no more than an exchange of briefs and an oral argument of less than three hours, *with Lupin's presentation truncated to allow the Court to resume a hearing in an ongoing complex criminal matter.*" (D.I. 297 at 7, emphasis added) We did not intend to state or imply that the Court gave this case short shrift in favor of other matters, but we see how it can be so read. We apologize to the Court.

That highlighted portion of the sentence above was unnecessary to Lupin's main point of that argument, namely that the procedural posture of this case differed from the cases relied on in its briefing by Shionogi, and from what appears to be contemplated by the Federal Circuit's decision in *Warner Chilcott*, issued six days after the Court's decision granting the preliminary injunction.

In a submission to the Federal Circuit last Friday, Lupin reiterated to the appeals court that Lupin had not requested an evidentiary hearing and did not intend to criticize either the format or the time allotted for the preliminary injunction hearing.



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We regret giving the Court any offense in the course of making our argument and,
again, apologize.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Richard D. Kirk'.

Richard D. Kirk (rk0922)

cc: All counsel